

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT KNOXVILLE
April 20, 2015 Session

CURTIS D. MARVEL v. ROANE TRANSPORTATION SERVICES, LLC

**Appeal from the Circuit Court for Sevier County
No. 20120084I Ben W. Hooper, II, Judge**

**No. E2014-01252-SC-R3-WC – MAILED MAY 27, 2015
FILED JULY 23, 2015**

A truck driver alleged that he sustained a heart attack in the course and scope of his employment. His employer denied the claim, asserting that the heart attack was not caused by his employment. The trial court ruled that the claim was compensable and awarded the truck driver workers' compensation benefits. The employer has appealed. Pursuant to Tennessee Supreme Court Rule 51, the appeal was referred to the Special Workers' Compensation Appeals Panel for a hearing and a report of findings of fact and conclusions of law. We affirm the trial court's judgment.

**Tenn. Code Ann. § 50-6-225(a) (2014) Appeal as of Right; Judgment of the Circuit
Court Affirmed**

SHARON G. LEE, C.J., delivered the opinion of the Court, in which DON R. ASH, SR. J., and DEBORAH C. STEVENS, SP. J., joined.

Richard R. Clark, Jr., Nashville, Tennessee, for the appellant, Roane Transportation Services, LLC.

Jesse D. Nelson and Kayla L. Towe, Knoxville, Tennessee, for the appellee, Curtis D. Marvel.

OPINION

Factual and Procedural Background

On October 21, 2011, Curtis Marvel ("Employee") was on assignment in Red Bud, Illinois, for Roane Transportation Services, LLC ("Employer"). As Employee secured steel coils to the back of his flatbed truck, he began suffering chest pains.

Employee tried to carry on with his scheduled delivery and began driving to his drop-off location. When his chest pains increased, Employee pulled over at a truck stop for help. Ultimately, paramedics took him to Gateway Medical Center for treatment, and Employee was diagnosed with a heart attack. When he was discharged from the hospital, Employee learned he had lost his job because Employer had decided that he was medically unable to drive a truck.

Employer denied Employee's claim for workers' compensation benefits after determining that his injury was not job related. On February 10, 2012, Employee filed a complaint for workers' compensation benefits against Employer in the Circuit Court for Sevier County.

On April 28, 2014, the trial court heard the case. Employee testified that he was hired by Employer as a long-haul truck driver in August 2011. Employee was fifty-three years old at the time of trial, had a high school degree, and had been a truck driver for approximately twenty years before he started working for Employer. Employee's work for Employer primarily consisted of driving a flatbed truck loaded with steel. Before the steel was loaded on the truck by cranes, Employee had to place chains, boards, and rubber mats on the bed of the trailer. After the steel was loaded on the truck, Employee had to secure the load by climbing onto the bed of the truck and tying down the steel with chains. Next, he had to tighten and lock the chains using a device called a "snap binder," which pulled the ends of the chains together so that he could lock them tightly in place. Most of the time, Employee had to use a "cheater bar" to get extra leverage to pull the chains into place. He estimated that the chains weighed between twenty to forty pounds, depending on their length. After the chains were secured, Employee had to cover the load with a tarp, which weighed approximately one hundred pounds.

Employee testified that, on the morning of October 21, 2011, he was dispatched from O'Fallon, Missouri, to Red Bud, Illinois, to pick up a load of steel coils. He arrived at his destination in Red Bud around 10:00 a.m. and was directed to the loading area of the facility. After a crane loaded the steel onto his truck, he began the process of securing the steel coils. When he attempted to secure the last chain, Employee felt a pain in his chest similar to a pulled muscle. Feeling fatigued, he stopped securing the load and took a break. Employee rested for a few minutes in the cab of his truck before calling his dispatcher to explain the situation:

I told [the dispatcher] I could not, you know, continue on, there was no way I was going to be able to tarp the load. I . . . just didn't have the energy, and I [didn't] know what was going on. So my dispatcher told me that he needed me to go ahead and get the last binder snapped, which is mandatory . . . in order to start moving, and that I could wait and tarp the load as long as I had it tarped prior to showing up to my destination in Atlanta, Georgia.

At that point, Employee returned to securing the load on his truck. He had to climb on and off the trailer several times and use his full body weight to secure the last chain in place. According to his driver's log, Employee left Red Bud at 11:21 a.m. As he drove, Employee experienced increasing pain in his chest and fatigue. By 1:35 p.m., Employee stopped at a rest area in Paducah, Kentucky, where he spent roughly thirty minutes before resuming his journey. As he continued driving, Employee's pain increased, and his left arm "felt like somebody was trying to yank it off." Alarmed by the growing pain, he called his wife to let her know he was not feeling well and did not know what was happening. While speaking with his wife, Employee started sweating profusely. Believing that he was about to die, he told his wife, "I don't know if I'm going to make it." Employee eventually spotted an off-ramp, exited the interstate, and parked at a nearby truck stop. He then entered the store and told a clerk to call 911 before collapsing.

Employee was subsequently taken by ambulance to Gateway Medical Center in Clarksville, Tennessee. He was diagnosed with a heart attack, had a stent placed in one of his coronary arteries, and spent five days in the hospital. After he was discharged from the hospital and on his way home, Employee stopped at Employer's headquarters to explain his situation, find out the status of his truck, and see if he could get his paycheck. At that time, Employer informed Employee that he was being terminated because he was medically unable to drive a truck. A few days later, Employee received a letter from Employer confirming his termination.

Employee initially had trouble finding follow-up treatment for his heart condition, because he did not have medical insurance or money to pay a doctor. Eventually, Employee obtained government medical benefits and was treated by Dr. Daniel Slutzker, a cardiologist.

Employee testified that he had not worked since the heart attack and was still experiencing chest, arm, and leg pain. In addition, he stated that his energy and endurance had decreased rapidly since his heart attack, to the point where he would be exhausted after riding his lawnmower for roughly five minutes. He is no longer able to drive and had to sell his vehicle because his family needed the money. Employee estimated that he was able to walk a quarter of a block before needing to rest and acknowledged that he used electric carts provided by stores when shopping. His inactivity since the heart attack had led to significant weight gain, which subsequently caused him to develop diabetes. Employee testified that he now has problems with his memory, rendering him unable to manage the family's finances, administer his own medication without his wife's assistance, or remember doctor's appointments. Further, he noted that his deteriorating health has affected his relationship with his young daughter, as he no longer has the energy to go shopping or play catch with her like he did prior to the heart attack. Finally, when asked whether he believed he was physically

capable of holding a job, Employee frankly admitted, “If somebody’s willing to work me for five minutes at a time, maybe; but I doubt it. . . . I would say I wouldn’t hire me.”

During cross-examination, Employee denied stating to any health care provider that he had waxing and waning symptoms before October 21, 2011, even though his records from Gateway Medical Center indicated that he had reported “waxing and waning symptoms for the past several days” prior to his heart attack. He explained that he thought he was dying when the hospital doctors were asking preliminary questions and subsequently had no idea whether the doctors understood him or whether he communicated his symptoms properly. Employee admitted he had been prescribed medication for high blood pressure beginning in August 2008, but denied that he knew the purpose of the medication at that time. Further, he stated that he had high cholesterol, though he could not remember the date of the diagnosis or whether he took any medication for this condition. Employee acknowledged that he had been involved in a motor vehicle accident in 2006 and had not disclosed that information on his job application. He also agreed that he did not disclose a past felony conviction or that he had received Social Security Disability for two years due to a knee injury in the 1980s.

Dr. Slutzker, testifying by deposition, stated that he first examined Employee in December 2011. He reviewed Employee’s records from Gateway Medical Center, which showed that Employee had sustained a 100% occlusion of a coronary artery and had been treated with an angioplasty and a stent. Dr. Slutzker testified that Employee had suffered an acute anterior ST-segment elevation myocardial infarction (“STEMI”), which was a more complete and usually more severe heart attack when compared with other types. In addition, Dr. Slutzker testified that the classic symptoms for a STEMI were “a sense of impending doom where you feel like you’re dying,” chest pressure, shortness of breath, profuse sweating, and intense fatigue.

Dr. Slutzker explained that a normal ejection fraction, which is the percentage of the blood in the cavity of the heart ejected with each heartbeat, is 50-75%. Based on Employee’s records from Gateway Medical Center, his ejection fraction was as low as 20-25% the day of his heart attack, increasing to 35-40% the following day. Dr. Slutzker opined that Employee’s ejection fraction impairment was related to the STEMI he suffered.

Dr. Slutzker testified that, “the mechanism of a heart attack is usually what’s called plaque rupture where a cholesterol deposit in the wall of an artery ruptures through the lining of the artery and then platelets come and clot the artery off.” When describing the most common cause of a plaque rupture, Dr. Slutzker stated:

[T]here’s a cholesterol deposit and there’s . . . a very thin cap to that plaque, and it’s almost . . . like a pimple. It just basically bursts through the wall because the cap can’t contain the cholesterol deposit, and that can happen

for no reason other than . . . the burden of cholesterol is too much for the wall of the artery and it just ruptures. So it could occur at any time.

Dr. Slutzker confirmed that plaque rupture can occur both during physical activity and while at rest. He stated that the specific physical activities Employee engaged in on the date of the incident could have precipitated his plaque rupture. Dr. Slutzker also admitted that, from his limited perspective in hindsight, there was no way for him to attribute Employee's plaque rupture directly to physical exertion. During cross-examination, Dr. Slutzker added, "[T]here's no question that [physical] stress can make heart attacks more common."

Dr. Slutzker stated that Employee had also reported multiple fainting episodes. Believing Employee had either an arrhythmia or another issue related to the heart attack, Dr. Slutzker referred Employee to Dr. Jeffrey Baerman, also a cardiologist, for an electrophysiologic study¹ and a tilt table test.² The results of both tests were essentially normal. As a result, he opined that the fainting spells were not related to Employee's heart attack, but that Employee's reported symptoms of memory loss, shortness of breath, and fatigue could be related to the heart attack. Dr. Slutzker concluded that Employee had a permanent impairment as a result of the heart attack, but did not assign him a numeric impairment rating.

Dr. Mohammed Hussain, a neurologist who treated Employee for his fainting episodes, testified that he first examined Employee on April 9, 2012. During their initial meeting, Employee complained about fainting spells, generalized fatigue, numbness and tingling in his arms and legs, complications with his memory and concentration, blurred vision, and anxiety. Dr. Hussain ordered an electroencephalogram ("EEG") and a magnetic resonance imaging ("MRI") of Employee's brain, and the results of both tests were normal. However, Employee continued to complain about almost daily fainting spells, which were growing more frequent and increasing in duration. After considering the EEG and MRI results, Employee's medical records and ongoing symptoms, Dr. Hussain opined that Employee's fainting spells were more than likely caused by cardiovascular factors, rather than neurological issues. Specifically, he believed the spells resulted from occasional disruptions of Employee's blood supply to his brain. Though he testified that he did not see this condition frequently in his practice, Dr. Hussain admitted the causal relationship between Employee's symptoms and his heart attack was "not unlikely." Further, he determined that Employee had 28% neurological impairment due to his continued fainting episodes, rendering Employee unable to drive,

¹ Dr. Slutzker testified that an electrophysiologic study is intended to "stimulate[] the heart to try to produce any cardiac rhythm disturbance that could cause someone to pass out."

² Dr. Slutzker explained that a tilt-table test involved strapping an individual to a table and tilting them to measure their heart rate and blood pressure in response to changes in position in an effort to diagnose the cause of fainting spells.

climb ladders, operate heavy machinery, use the stove, or work alone. In addition, Dr. Hussain acknowledged that Employee's fainting could be triggered by physical exertion and had recommended that Employee not lift more than ten pounds. During cross-examination, Dr. Hussain clarified that the cause of Employee's fainting episodes was either cardiovascular or neurological in nature. Thus, when his evaluation had eliminated the possibility of a neurological cause, Dr. Hussain concluded that the spells were cardiac-related.

Dr. Stephen Dill, a cardiologist, testified by deposition that he had examined Employee at the request of Employee's attorney on January 21, 2013. Employee told Dr. Dill that he had experienced symptoms for four to seven days before his October 21, 2011 heart attack, a claim consistent with his records from Gateway Medical Center. Dr. Dill testified that he believed Employee had "anatomic coronary disease," experienced an "acute coronary syndrome episode" on October 21, 2011, and suffered a STEMI heart attack as a result. Further, Dr. Dill opined that Employee's physical exertion on October 21 was "an exacerbatory factor in regard to amplifying or accelerating the [heart attack]." In addition, he explained, "[A]cceleration of blood pressure with emotion, acceleration of blood pressure with exercise . . . can create increased shear forces on that area of the flow and can shear off the lining of the vessel and expose [a plaque]."

Dr. Dill concluded that Employee had a 24% to 28% permanent impairment due to the heart attack and that his ongoing fatigue and shortness of breath were related to the heart attack. During cross-examination, Dr. Dill testified that Employee's symptoms before his heart attack could have simply been the manifestations of a crescendo angina, which would not result in permanent damage to the heart. Further, he admitted that there was no way to determine within a reasonable degree of medical certainty whether Employee's physical exertion on October 21, 2011, actually precipitated the heart attack. However, Dr. Dill noted that the emotional stress of driving a large truck while experiencing chest pains could have accelerated the onset of Employee's heart attack.

Dr. Rodney Caldwell, a vocational disability expert, testified that he had evaluated Employee on August 27, 2012. During that meeting, he administered a Wide Range Achievement Test, which indicated that Employee's word pronunciation was at an eleventh-grade level, his reading comprehension was above a twelfth-grade level, and his math ability was at a seventh-grade level. In addition, Dr. Caldwell reviewed the restrictions Dr. Dill and Dr. Hussain gave Employee and opined that Employee was "100 percent totally disabled." Dr. Caldwell noted that Employee had no permanent restrictions before his heart attack in October 2011. During cross-examination, he characterized Employee's work as falling in the "medium exertion level" to "very heavy level" for the fifteen to twenty years prior to his heart attack. Dr. Caldwell testified that he only considered work performed in that fifteen to twenty year time period when analyzing Employee's transferrable skills, as the physical nature of his work during that time period weighed against Employee having an earlier disability. Though he was

unaware Employee had owned a small business in recent years, Dr. Caldwell maintained that such information did not change his conclusion, given the recent restrictions placed on Employee by Dr. Dill and Dr. Hussain.

The trial court ruled that Employee's heart attack arose out of and in the scope of his employment. The trial court accredited the testimony of both Employee and Dr. Caldwell, noting that Employee had provided reasonable explanations for the discrepancies between his testimony and some of the records in the case. Further, the court accredited the testimony of both Dr. Dill and Dr. Hussain, while also noting that Dr. Slutzker's statements were "less helpful." Ultimately, the trial court held that Employee had sustained a compensable injury and was permanently and totally disabled.

Employer has appealed, asserting that the evidence preponderates against the trial court's findings of causation and disability and arguing for a change in the law regarding the causation standard for heart attack claims under the Tennessee Workers' Compensation Act.

Standard of Review

In a workers' compensation case, we review a trial court's factual findings de novo upon the record, accompanied by a presumption of correctness of the findings, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. § 50-6-225(a)(2) (2014); *Tryon v. Saturn Corp.*, 254 S.W.3d 321, 327 (Tenn. 2008). Applying this standard, we must conduct an in depth examination of the trial court's factual findings and conclusions. *Padilla v. Twin City Fire Ins. Co.*, 324 S.W.3d 507, 511 (Tenn. 2010); *Wilhelm v. Krogers*, 235 S.W.3d 122, 126 (Tenn. 2007). When the trial court has heard in-court testimony and had the opportunity to observe witness demeanor, we must afford considerable deference to any factual determinations if credibility is at issue. *Madden v. Holland Grp. of Tenn., Inc.*, 277 S.W.3d 896, 899 (Tenn. 2009). When the issues involve expert medical testimony contained in the record by deposition, determination of the weight and credibility of the evidence must necessarily be drawn from the contents of the depositions, and the reviewing court may draw its own conclusions with respect to those issues. *Foreman v. Automatic Sys., Inc.*, 272 S.W.3d 560, 571 (Tenn. 2008). Similarly, we review a trial court's conclusions of law de novo upon the record, with no presumption of correctness. *Seiber v. Reeves Logging*, 284 S.W.3d 294, 298 (Tenn. 2009).

Analysis

A.

Employer first asserts that the trial court erred by determining that Employee's heart attack was a compensable injury. Employee had the burden of proving every

element of his case by a preponderance of the evidence. *Vandall v. Aurora Healthcare, LLC*, 401 S.W.3d 28, 32 (Tenn. 2013); *Foreman*, 272 S.W.3d at 572. We must resolve all reasonable doubts pertaining to the causation of an injury and whether the injury arose out of the employment in favor of the employee. *Excel Polymers, LLC v. Broyles*, 302 S.W.3d 268, 275 (Tenn. 2009) (citing *Phillips v. A&H Constr. Co.*, 134 S.W.3d 145, 150 (Tenn. 2004)). The Tennessee Supreme Court has “consistently held that an award may properly be based upon medical testimony to the effect that a given incident ‘could be’ the cause of the employee’s injury, when there is also lay testimony from which it reasonably may be inferred that the incident was in fact the cause of the injury.” *Reeser v. Yellow Freight Sys., Inc.*, 938 S.W.2d 690, 692 (Tenn. 1997); *see also, Orman v. Williams Sonoma, Inc.*, 803 S.W.2d 672, 676 (Tenn. 1991); *P&L Constr. Co., Inc. v. Lankford*, 559 S.W.2d 793, 794 (Tenn. 1978); *Lynch v. La Rue*, 278 S.W.2d 85, 86 (Tenn. 1955). Proof of causation is satisfied when the employee “demonstrates that the ‘injury has a rational, causal connection to the work.’” *Foreman*, 272 S.W.3d at 572 (quoting *Braden v. Sears, Roebuck & Co.*, 833 S.W.2d 496, 498 (Tenn. 1992)).

Workers’ compensation claims for heart attacks are divided into two groups: (1) those where the heart attack is precipitated by physical exertion or strain, and (2) those where the heart attack results from mental stress, tension, or some type of emotional upheaval. *Clark v. Nashville Mach. Elevator Co. Inc.*, 129 S.W.3d 42, 47 (Tenn. 2004) (citing *Bacon v. Sevier Cnty.*, 808 S.W.2d 46, 49 (Tenn. 1991)). Employee alleges that his heart attack falls within the first group caused by physical exertion or strain. In these types of cases, “the resulting death or disability is the result of an accident arising out of and in the course and scope of the employment.” *Bacon*, 808 S.W.2d at 49. The mere fact the attack was precipitated by ordinary exertion or the usual physical strain characteristic of the employee’s work makes no difference. *Id.* As a result, “no extraordinary exertion or unusual physical strain need be established in order to obtain a recovery.” *Id.* at 50. Further, a preexisting heart disease will not foreclose an employee’s opportunity for recovery for a subsequent heart attack. *Id.* at 49.

There was evidence from Dr. Slutzker that it was possible that Employee’s physical exertion—which involved moving, tightening, and locking chains to secure the load of steel coils—could have contributed to Employee’s heart attack, but was not the sole cause of the heart attack. Employee’s high cholesterol and hypertension were risk factors that may have also played a role. Based on Dr. Slutzker’s testimony, however, physical exertion could contribute to a plaque rupture that would initiate a heart attack, and physical or emotional “stress can make heart attacks more common.” We find that his testimony is essentially consistent with that of Dr. Dill, who said that there was no way to determine the sole cause of Employee’s heart attack with any reasonable degree of medical certainty, but that an “acceleration of blood pressure with emotion, acceleration of blood pressure with exercise . . . certainly can speed up or accelerate [a plaque rupture].” Further, Dr. Dill noted that, even given Employee’s history of hypertension and high blood pressure, physical exertion was likely a “factor in creating the

environment that provoked the heart attack.” After considering the testimony of Employee, Dr. Slutzker, and Dr. Dill, we conclude that the evidence does not preponderate against the trial court’s finding that the October 21, 2011 heart attack was causally related to Employee’s work activity that morning.

B.

Employer asserts that Employee’s fainting spells are not causally related to his October 21, 2011 heart attack. The record reflects a straightforward conflict of expert medical opinions as to the root cause of these episodes. Dr. Slutzker opined that Employee’s ongoing problem was not related to his heart attack, based on the results of the electrophysiologic study and tilt table test he ordered after Employee initially complained of persistent fainting. In contrast, Dr. Hussain believed that the fainting spells were caused by periodically deficient blood flow to Employee’s brain due to irregularities with or the weakness of his heartbeat. Dr. Hussain relied on the results of Employee’s EEG and MRI, which were both negative from a neurological standpoint, and determined that Employee’s syncopal episodes were cardiovascular in nature.

“When medical testimony differs, it is within the discretion of the trial judge to determine which expert testimony to accept.” *Story v. Legion Ins. Co.*, 3 S.W.3d 450, 455 (Tenn. 1999). Though both doctors provided plausible explanations for their conclusions, the trial judge decided to accredit Dr. Hussain’s testimony, while noting the “less helpful” nature of the statements provided by Dr. Slutzker. Further, there is no evidence that Employee had fainting spells before his heart attack. The evidence shows that Employee’s condition developed in the weeks and months after his heart attack. When considering Employee’s lack of a prior history of fainting together with the onset of this condition following the heart attack, we agree that Dr. Hussain’s opinion carried greater weight on this issue than Dr. Slutzker’s. Therefore, we conclude that the evidence does not preponderate against the trial court’s finding that Employee’s fainting spells are causally related to his October 21, 2011 heart attack.

C.

Employer next contends that the evidence preponderates against the trial court’s finding that Employee was permanently and totally disabled as a result of the October 21, 2011 heart attack. First, Employer argues that Employee suffered a second heart attack on May 21, 2012, and contends that this second heart attack is the primary cause of Employee’s disability. However, Dr. Slutzker, the Employee’s treating physician, specifically testified that Employee did not suffer a second heart attack on May 21, 2012. Rather, Dr. Slutzker testified that Employee was having chest pains that “reminded [Employee] of his heart attack at that time, not as intense but similar.” Subsequent tests revealed a 70% blockage of a coronary artery different than the one affected by the October 21, 2011 heart attack. As a result, Dr. Slutzker performed a heart catheterization

procedure and inserted a stent into Employee's right coronary artery. Dr. Slutzker noted that the artery affected by the October 21, 2011 heart attack "looked fine" and that the "stent was still open." When asked to determine the amount of impairment that resulted from this May 21, 2012 procedure, Dr. Slutzker testified that "there was no damage at that time, because the artery was never completely occluded and [Employee] never lost any muscle from that admission." Finally, Dr. Slutzker acknowledged that any impairment rating he would ascribe to Employee would have to be based solely on the October 21, 2011 heart attack, considering the total lack of damage the May 21, 2012 episode caused. Accordingly, the evidence supports a finding that Employee did not suffer a second heart attack and that the May 21, 2012 heart catheterization procedure did not affect Employee's ability or disability to work.

Employer's second assertion in support of this argument is based on its position that the fainting episodes were not related to the October 21, 2011 heart attack. As already noted, the evidence does not preponderate against the trial court's finding on that issue.

Finally, Employer asserts that Dr. Caldwell's opinion is not credible because it was based on inaccurate assumptions and incomplete information. Specifically, Employer notes that Dr. Caldwell never received an accurate employment history from Employee, as he was unaware Employee had previously owned a small business. In addition, Employer contends that Dr. Caldwell incorrectly relied upon Dr. Hussain's "non-exertional" restriction that Employee should not be allowed to work alone. We disagree. Employee's uncontradicted testimony made clear that he is only able to walk a quarter of a block at most before he needs to rest. Employee also testified that simply operating a lawnmower, while seated, rendered him completely exhausted after five minutes. Further, Dr. Dill's restrictions effectively foreclosed the possibility of Employee working any labor-intensive jobs similar to the ones he previously held, as Dr. Dill testified that Employee should avoid any employment that would expose him to higher heart rates. Finally, Dr. Hussain's restrictions, namely his recommendation that Employee not work without supervision, were clearly based upon safety considerations justified by Employee's medical condition. After reviewing all the evidence, we conclude that Dr. Caldwell's opinion is reasonable, and the evidence does not preponderate against the trial court's finding that Employee is permanently and totally disabled.

D.

Finally, Employer urges this panel to change the law with respect to the causation standard for heart attack claims. Employer argues that the General Assembly recently changed the law, effective July 1, 2014, to provide that an injury arises primarily out of and in the course and scope of employment "only if it has been shown by a preponderance of the evidence that the employment contributed more than fifty percent

(50%) in causing the injury, considering all causes.” Tenn. Code Ann. § 50-6-102(13)(B). Employer urges us to apply this standard retroactively to Employee’s October 21, 2011 injury. The Tennessee Constitution states, “[N]o retrospective law, or law impairing the obligations of contracts, shall be made.” Tenn. Const. art. 1, § 20. Further, statutes are “presumed to operate prospectively unless the legislature clearly indicates otherwise.” *Nutt v. Champion Int’l Corp.*, 980 S.W.2d 365, 368 (Tenn. 1998). The General Assembly established July 1, 2014, as the effective date for this new definition, and there is no indication the amendment was intended to be applied retroactively. Accordingly, we decline to apply the amended statute retroactively.

Conclusion

The judgment of the trial court is affirmed. Costs are taxed to Roane Transportation Services, LLC, and its surety, for which execution may issue if necessary.

SHARON G. LEE, CHIEF JUSTICE

IN THE SUPREME COURT OF TENNESSEE

AT KNOXVILLE

CURTIS D. MARVEL v. ROANE TRANSPORTATION SERVICES, LLC.

**Circuit Court for Sevier County
No. 20120084I**

No. E2014-01252-SC-WCM-WC – FILED JULY 23, 2015

Judgment Order

This case is before the Court upon the motion for review filed by Roane Transportation Services, LLC pursuant to Tennessee Code Annotated section 50-6-225(e)(5)(A)(ii), the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law.

It appears to the Court that the motion for review is not well taken and is, therefore, denied. The Panel's findings of fact and conclusions of law, which are incorporated by reference, are adopted and affirmed. The decision of the Panel is made the judgment of the Court.

Costs are assessed to Appellant, Roane Transportation Services, LLC, for which execution may issue if necessary. (Note: Costs are taxed to the parties exactly as set out in the Panel opinion)

It is so ORDERED.

PER CURIAM

Sharon G. Lee, C.J., not participating